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**UTAH LABOR COMMISSION**

**GENEVA G RICHARDSON,**

**Petitioner,**

**vs.**

**NAPA AUTO PARTS d.b.a PARTS CITY  
and WORKERS COMPENSATION  
FUND,**

**Respondent.**

**ORDER OF REMAND**

**Case No. 04-0075**

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Napa Auto Parts, doing business as Parts City, and its insurance carrier, Workers Compensation Fund (referred to jointly as “Parts City” hereafter), ask the Utah Labor commission to review Administrative Law Judge Marlowe’s award of temporary total disability compensation to Geneva G. Richardson under the Utah Workers’ Compensation Act (“the Act”; Title 34A, Chapter 2, Utah Code Annotated).

Ms. Richardson has also filed a motion for review of Judge Marlowe’s decision, in which she requests medical benefits for her alleged work injuries.

The Labor commission exercises jurisdiction over these motions for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

**BACKGROUND**

On January 26, 2004, Ms. Richardson filed an application for hearing with the Commission to compel Parts City to pay temporary total and permanent partial disability compensation for back injuries allegedly caused by Ms. Richardson’s work at Parts City on December 21, 2000.

Judge Marlowe held an evidentiary hearing on Ms. Richardson’s application and then referred the medical aspects of the claim to a medical panel. After receiving the panel’s report, Judge Marlowe issued her decision on November 22, 2005. In summary, Judge Marlowe dismissed Ms. Richardson’s claim for permanent partial disability compensation, but awarded temporary total disability compensation for the period from January 30, 2001, through September 24, 2003.

In requesting Commission review of Judge Marlowe’s decision, Parts City contends that Ms. Richardson’s alleged work injuries did not prevent her from doing her normal work duties. Ms. Richardson’s motion for review asks the Commission to address her right to medical care for her alleged injuries.

**DISCUSSION**

The Commission has discovered that no audible recording exists of the evidentiary hearing held on Ms. Richardson's claim on September 23, 2005. Section 63-46b-8(g) of the Utah Administrative Procedures Act requires that such hearings be recorded. Furthermore, with no hearing record, the Commission is unable to adequately consider the parties' arguments. The Commission therefore remands this matter to the Adjudication Division to conduct a new evidentiary hearing and then issue a new decision based on the evidence presented at that hearing. Any party dissatisfied with the decision may then request further agency review.

**ORDER**

The Commission remands this matter to the Adjudication Division for additional proceedings consistent with this decision. It is so ordered.

Dated this 8<sup>th</sup> day of February, 2007.

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Sherrie Hayashi  
Utah Labor Commissioner